

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

JAMES B. KELLEY,

Plaintiff,

v.

**NANCY A. BERRYHILL, Acting
Commissioner of Social Security,**

Defendant.

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Case No. CIV-17-1055-CG

ORDER

On May 30, 2018, the Court entered an Order and a Judgment reversing the decision of the Social Security Administration and remanding this case for further proceedings. *See* Doc. Nos. 17, 18. Plaintiff James B. Kelley now requests an award of attorney’s fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412. *See* Pl.’s Unopposed Mot. Att’y Fees (Doc. No. 19). Defendant has notified the Court that she has no objection to the requested fee award. *See id.*

Having considered Plaintiff’s unopposed request and the relevant record, the Court finds that: “(1) [P]laintiff is a ‘prevailing party’; (2) the position of the United States was not ‘substantially justified’; and (3) there are no special circumstances that make an award of fees unjust” in this case. *Hackett v. Barnhart*, 475 F.3d 1166, 1172 (10th Cir. 2007) (quoting 28 U.S.C. § 2412(d)(1)(A)). The Court therefore GRANTS Plaintiff’s request and awards fees in the amount of \$5220.50, with said amount to be paid directly to Plaintiff and sent in care of Kyle J. Saunders, P.O. Box 1605, Ada, Oklahoma, 74820. If attorney’s fees are also awarded under 42 U.S.C. § 406(b), Plaintiff’s counsel shall refund the smaller

award to Plaintiff pursuant to *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).

IT IS SO ORDERED this 2nd day of July, 2018.

A handwritten signature in blue ink, reading "Charles B. Goodwin", is positioned above a horizontal line.

CHARLES B. GOODWIN
UNITED STATES MAGISTRATE JUDGE